

REMARKS

Claims 1, 3-7, 9-15 and 46-54 are all the claims pending in the application. Of these claims, claims 1 and 11 are in independent form.

To summarize the Office Action, claims 1, 3, 11, 14, 49, 50, 53 and 54 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Barron et al. (U.S. Patent No. 4,213,183, hereinafter “Barron”) in view of Wood et al. (U.S. Patent No. 5,715,823, hereinafter “Wood”) and Kanda et al. (U.S. Patent No. 5,348,013); claims 4-7, 46-48, 51 and 52 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Barron in view of Wood and Kanda, further in view of Lather et al. (U.S. Patent No. 5,951,240,281, hereinafter “Lather”); and claims 9, 10, 12 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable under 35 U.S.C. § 103(a) as being unpatentable over Barron in view of Wood and Kanda, further in view of La Pierre (U.S. Patent No. 5,951,611).

Applicant respectfully traverses.

In the rejection of claims 1 and 11, the Examiner contends that the combination of Barron and Wood fails to teach “comparing the average reception level with a predetermined reception level value.” (Office Action at page 3). In order to compensate for this deficiency, the Examiner relies on Kanda and concludes that the combination of Barron in view of Wood and Kanda teaches all the claim limitations and that it would have been obvious to combine the teachings of these references.

Applicant respectfully disagrees. Initially, the Examiner mischaracterizes the actual language of claims 1 and 11. For instance, claim 1 recites “wherein the data is reception level data and wherein said host computer further includes reception level comparison means for comparing the most recent data of the reception level data or an average of continuous reception level data pieces containing the most recent data with a predetermined reception level setup value.”

However, neither Barron nor Wood teaches a host computer which includes the claimed reception level comparison means. Moreover, the Examiner addresses the claimed host computer in the grounds of rejection only by alleging that Wood teaches host computer with data storage sections for the host computer and for each probe.

Further, Applicant submits that Kanda fails to teach the feature of the host computer including reception level comparison means, as claimed, and therefore fails to compensate for the deficient teaching of Barron and Wood. As alleged by the Examiner, Kanda teaches “an ultrasonic diagnostic system that compares an average value of reception signals with a predetermined value.” (Office Action at page 3). In support of this conclusion, the Examiner cites only to the language of dependent claim 16 of Kanda at column 33, lines 7-13, which refers to a comparing means for comparing an average value of the echo signals with a predetermined threshold level.

Kanda, though, teaches an ultrasonic diagnostic apparatus comprising an ultrasonic probe, multiplexer, display system, and signal correction system. (Kanda at col. 6, lines 53-53;

Fig. 1). Thus, the “ultrasonic diagnostic system” of Kanda is merely a diagnostic apparatus which operates without receiving or transmitting data to another device and therefore does not teach or suggest a host computer with the claimed reception level comparison means. Indeed, a user of the diagnostic apparatus of Kanda would necessarily be required to obtain measurement data from the apparatus at the location where the measurement is being performed. Conversely, the host computer of the ultrasonic inspection management system defined by claim 1 can be analyzed at a remote location.

Similarly, Kanda fails to teach the limitations of independent claim 11 which are deficient in the combination of Barron and Wood. For instance, claim 11 requires that at least one of the ultrasonic inspection systems, which are connected to a host computer via a transmission line, comprises inspection system reception level comparison means for comparing most recent data of reception level data or an average of continuous reception level data pieces containing the most recent data with a predetermined reception level setup value and wherein the data collected by the data collection means of the host computer is data of a comparison result of said inspection system reception level comparison means. As discussed above, Kanda does not teach a host computer with the claimed features.

Moreover, the Examiner has not provided a sufficient motivation to combine the teachings of Kanda with the combination of Barron and Wood. The Examiner merely alleges it would have been obvious to combine Kanda “so that reception levels are compared with a threshold value, as taught by Kanda et al, so as to receive the benefit of accurate diagnosis in order to improve productivity of the testing apparatus.” (Office Action at page 3).

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However, the Examiner has not identified any portion of Kanda which supports this alleged motivation. Rather, the Examiner has presented only conclusory statements with respect to a benefit of accurate diagnosis and improving productivity of the testing apparatus. Such unsupported conclusions do not adequately address the issue of motivation to combine and are therefore insufficient to establish *prima facie* obviousness. See, e.g., *In re Lee*, 61 U.S.P.Q.2d 1430, 1433 (Fed. Cir. 2002); *In re Zurko*, 59 U.S.P.Q.2d 1694, 1697 (Fed Cir. 2001) (holding that deficiencies of the cited references cannot be remedied by “general conclusions about what is ‘basic knowledge’ or ‘common sense.’”). Moreover, Applicant submits that the motivation alleged by the Examiner is the result of impermissible hindsight reasoning, and the combination is therefore improper. *In re Lee* at 1433 (holding that “It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to ‘[use] that which the inventor taught against its teacher.’” (citations omitted)).

Accordingly, the Examiner has failed to establish *prima facie* obviousness with respect to the rejection of claims 1 and 11 at least because the combination of Wood, Barron and Kanda fails to teach all the claim limitations and the motivation to combine is insufficient and based on impermissible hindsight reasoning. Accordingly, reconsideration and withdrawal of the rejection of claims 1 and 11 is requested. Further, claims 3-7, 9-10, 12-15 and 46-54 all depend from claim 1 and should therefore be allowed at least by virtue of depending from claim 1.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

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Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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